

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SAMUEL C. STEIN,

Plaintiff,

v.

Civil Action 2:15-cv-2681

Judge George C. Smith

Magistrate Judge Elizabeth P. Deavers

DIRECTOR GARY MOHR, *et al.*,

Defendants.

REPORT AND RECOMMENDATION

Plaintiff filed his Complaint on August 3, 2015 and the Court granted his Motion for Leave to Proceed *in forma pauperis* on August 6, 2015. (ECF Nos. 1 & 3.) On March 24, 2016, the Court granted Plaintiff an additional 90 days to serve the two Jane Doe Defendants in this matter pursuant to Federal Rule of Civil Procedure 4(m).¹ (ECF No. 43.) On July 13, 2016, the Court ordered Plaintiff to effect service upon the two Jane Doe Defendants within twenty-one days or to alternatively show cause why the Court should not dismiss this action pursuant to Rule 4(m). (ECF No. 54.) To date, Plaintiff has not effected service upon the two Jane Doe

¹Rule 4(m) provides in pertinent part as follows:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

Defendants. Nor has Plaintiff responded to the Court's Show Cause Order. It is therefore **RECOMMENDED** that the Court **DISMISS** the two Jane Does Defendants as defendants in this action without prejudice pursuant to Federal Rule of Civil Procedure 4(m) for failure to timely effect service of process.

The Clerk is **DIRECTED** to mail a copy of this Order to:

Samuel C. Stein
668-885
Ross Correctional Institution
P.O. Box 7010
16149 St. Rt. 104
Chillicothe, OH 45601

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that "failure to object to the magistrate judge's recommendations constituted a waiver of [the defendant's] ability to appeal the district court's ruling"); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court's denial of pretrial motion by failing to timely object to

magistrate judge’s report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal”) (citation omitted)).

Date: August 8, 2016

/s/ Elizabeth A. Preston Deavers
ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE